

## **Remarks**

### **I. Introduction**

- Claims **1 – 20** are currently pending.
- Of the pending claims, only claims **1, 11, 13 and 17** are independent.
- All pending claims stand rejected.
- Applicants have amended each of the independent claims **1, 11, 13 and 17** herein.
- Claims **21 – 24**, each of which is dependent, have been added herein to capture a particular embodiment described in the Application as filed.

Applicant hereby respectfully requests reexamination and reconsideration of the pending claims in light of the amendments and remarks provided herein and in accordance with 37 C.F.R. §1.112.

### **II. Applicants Response to Outstanding Claim Objections and Rejections**

#### **A. Claim Objections**

Claims **10, 13, 15 – 16 and 20** have been objected to based on various informalities. Applicants thank the Office for noting these inadvertent errors and have corrected each in conformance with the Office's suggestions.

#### **B. Claim Rejections – Section 112**

Claim **20** stands rejected under 35 U.S.C. §112, second paragraph, because there is no antecedent basis for the term “the reels.” Applicants have amended claim **20** herein to refer to “reels” rather than “the reels,” thus overcoming the rejection.

## C. Claim Rejections – Section 102

### C.1. Claims 13 and 17 – 19 in light of Baerlocher ‘200

Claims **13 and 17 – 19** stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent Application Publication No. 2002/0016200 to Baerlocher et al., which published as U.S. Patent No. 6,988,947 (“Baerlocher ‘200” herein). Applicants respectfully traverse this rejection for the reasons set forth below.

First, with respect to both independent claim **13** and independent claim **17**, Applicants respectfully traverse this rejection on the grounds that Baerlocher ‘200 does not describe or suggest modifying a situation of a secondary game based on an outcome of a primary game, as is claimed in independent claims **13 and 17** prior to the amendments made herein. In particular, Applicants respectfully submit that Baerlocher ‘200 fails to teach or suggest the following claim limitation present in each of independent claims **13 and 17**:

- initiating a secondary game at a gaming device, in which the course of the secondary game depends on outcomes of two or more handle pulls

Applicants respectfully note that the specification of the present application, as filed, defines “handle pull” as defined on pg. 3, line 31 – pg. 4, line 2 as “a complete *primary game* at a gaming device, involving the placement of a wager, the determination of an at least partially random or pseudo-random outcome, the determination of a payment amount, and the providing or crediting of a player with the payment amount” (emphasis added). As explained on page 5,

lines 16 – 31 of the specification as filed, a primary game is distinct from a secondary game.

Baerlocher '200 describes movement of a player symbol and termination symbol in a bonus round. While the bonus round may be triggered by an outcome of a primary game, once the bonus round is initiated and entered into by a player, the player plays the bonus round until it terminates and the primary game is paused during the duration of the bonus round. See, for example, (i) paragraph [0043]: "...automatically begin bonus round when the player has achieved a qualifying condition in the game..."; (ii) paragraph [0044]: "If a player achieves a bonus triggering or qualifying condition while playing the game, the gaming device 10 automatically displays a screen for the bonus round..."; (iii) paragraph [0071]: "there are preferably three manners in which the bonus round can terminate...the bonus round terminates...the game awards bonus credits gained by the player." Baerlocher '200 describes that the graphical output of the bonus round may be output via the same video monitor 32 that displays the reels of the primary game. (e.g., paragraphs [0037] and [0043], evidencing that the play of the reels of the primary game does not occur during the bonus round once it is entered. Figure 10 of Baerlocher '200 illustrates that a player has the option of either spinning the reels or playing the bonus round, thus further evidencing that the bonus round is a distinct process that occurs outside of the context of the primary game once it is triggered and entered into by a player. As described in Baerlocher '200, a player using a play activator of the gaming device during the primary game may cause reels to resolve on a combination of symbols that correspond to a payout that is provided to a player (e.g., paragraph [0042]. However, a player's usage of a play activator of the gaming device during the bonus round only causes movement of the player symbol (e.g., paragraph [0067]); there is no description that the resolution of the reels during a bonus round may

directly correspond to any payout being provided to the player, thus further evidencing that Baerlocher '200 does not contemplate an outcome of a primary game ever affecting the movement of a player symbol or termination symbol in the bonus round or in any manner affects any progress, results or changes in the bonus round.

In fact, Baerlocher '200 describes that distinct reels and reel symbols are output in a bonus screen during a bonus round from those displayed during the primary game (e.g., element 86 of Figure 11; paragraph [0066]), to reflect the two characters of the bonus round. There is no enablement in Baerlocher '200 for the reels or reel symbols of the primary game to be involved in affecting the movement of the player symbol and the terminating symbol in the bonus round. The primary game of Baerlocher '200 does not in any manner affect the bonus round once the bonus rounds is triggered.

Additionally, with respect to independent claim **13**, Applicants respectfully traverse this rejection on the grounds that Baerlocher '200 does not teach or suggest the following limitation that has been added herein as a clarifying amendment to claim **13**:

- wherein there is at least one difference between at least one of  
the first plurality of locations of the first situation as  
compared to the second plurality of locations of the second situation  
and  
the first set of connections of the first situation as  
compared to the second set of connections of the second situation

In other words, the layout of the game (whether it is the layout of possible locations and/or possible connections among such locations) changes as between the first situation and the second situation. Such an embodiment is supported by the specification as filed at least on page 26, line 15 through page 28, line 5. In Baerlocher '200, although a player symbol and/or a termination symbol may move along a path, there is no description of an outcome causing a change in the path such that there is a change of the locations and/or connections among locations in the path.

Additionally, with respect to independent claim 17, Applicants respectfully traverse this rejection on the grounds that Baerlocher '200 does not teach or suggest the following limitation that has been added herein:

- an objective within the secondary game that is first associated with a first prize amount and then, based on an outcome, a second prize amount

In other words, an objective such as reaching a particular location of a game layout may be associated with a prize and the prize associated with the location may be changed as a result of an outcome. Such an embodiment is described at least on page 31, lines 5 – 30 of the specification as filed. In Baerlocher '200, although a player may continue to add potential credits to be won as a result of the termination of the bonus round, the only objective associated with such credits is termination of the bonus round (the event that causes any accumulated credits to be paid out to the player). The termination of the bonus round is not an objective within the bonus round. Applicants respectfully submit that there is absolutely no description in Baerlocher '200 of an outcome affecting a prize associated with an objective within the game, an objective which is other than the termination of the game.

Dependent claims **18 and 19** are patentable at least for the same reason as independent claim **17** from which they depend, which is discussed above.

C.2. Claims 11 and 12 in light of Webb

Claims **11 and 12** stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,733,389 to Webb et al. (“Webb” herein). Applicants respectfully traverse this rejection on the grounds that Webb does not teach or suggest a secondary game being affected by an outcome of a primary game. In particular, Webb does not teach or suggest the following limitation of claim **11** (and of claim **12**, by virtue of its dependency on claim **11**):

- initiating a secondary game at a gaming device, in which the course of the secondary game depends on outcomes of two or more handle pulls

As explained with reference to claim **13 and 17**, above, a “handle pull” as defined in the specification of the present application is a complete primary game of at a gaming device. Webb, like Baerlocher ‘200, is limited to describing progress in a secondary game that is a bonus game entered into upon a qualifying condition being achieved in the primary game. However, once the bonus round is entered, no outcome of the primary game affects the progress or changing of situation in the bonus round.

With respect to claim **12**, it has now been amended to now recite

- the second number of handle pulls is (i) less than one less than the first number of handle pulls and (ii) greater than one

Webb does not describe or suggest deducting a number of handle pulls as a result of a handle pull by more than one yet such that the number of available handle pulls remains greater than zero. Rather, a third strike symbol in Webb results in a termination of the secondary game and thus a resetting of the number of spins remaining to zero.

### C.3. Claims 13 – 19 in light of Baerlocher ‘136

Claims **13 – 19** stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,602,136 to Baerlocher et al. (“Baerlocher ‘136” herein). Applicants respectfully traverse this rejection on the grounds set forth below.

Applicants respectfully traverse this rejection on the grounds that Baerlocher ‘136, like Baerlocher ‘200 and Webb, does not teach or suggest a secondary game being affected by an outcome of a primary game. In particular, Baerlocher ‘136 does not teach or suggest the following limitation of claim **13** (and of claims **14 - 16**, by virtue of their respective dependency on claim **13**) and of claim **17** (and of claims **18 and 19**, by virtue of their respective dependency on claim **17**):

- initiating a secondary game at a gaming device, in which the course of the secondary game depends on outcomes of two or more handle pulls

As explained in section C.1, above, a “handle pull” as defined in the specification of the present application is a complete primary game of at a gaming device. Baerlocher ‘136, like Webb and Baerlocher ‘200, is limited to describing progress in a secondary game that is a bonus game entered into upon a qualifying

condition being achieved in the primary game. However, once the bonus round is entered, no outcome of the primary game affects the progress or changing of situation in the bonus round.

#### **D. Claim Rejections – Section 103**

##### D.1. Claims 1 – 4, 8 and 10 in light of Seelig in view of Muzaffar

Claims **1 – 4, 8 and 10** stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,997,400 to Seelig et al. (“Seelig” herein) in view of British Patent No. GB 2,372,218 to Muzaffar et al. (“Muzaffar” herein). Applicants respectfully traverse this rejection on the grounds set forth below.

Neither Seelig nor Muzaffar, alone or in combination, teach or suggest the following limitation of claim **1** (and thus of claims **2 – 4, 8 and 10**, by virtue of their respective dependency from claim **1**) as amended:

- determining, based on a random number, a first outcome
- determining, at a second time, based on the first game situation and the first outcome, a second game situation, in which the second game situation includes a second amount of time available for completing the secondary game;  
in which the difference between the first amount of time and the second amount of time is greater than the elapsed time between the first time and the second time

As the Office acknowledges, Seelig does not teach or describe reducing an amount of time available for completing the secondary game based on a first outcome that is determined based on a random number by more than the time elapsed between the first time and the second time. Applicants respectfully



disagree, however, that Muzaffar cures the deficiency (as the Office suggests in its analysis of claim **10**, which recites a similar but narrower limitation). In Muzaffar, the only outcome that causes a reduction of time that is more than the time elapsed between a first time and a second time is a wrong answer by a player or a player passing on a set of images (pg. 3, second to last full paragraph). Such an outcome is not an outcome determined based on a random number. Rather, such an outcome is an outcome resultant of a player decision with respect to moving along within a game. The only such player decisions in Seelig are decisions to place a coin into the slot machine or pull the handle of the slot machine (Col. 5, lines 16 – 29). It would not make sense to combine the concept of Muzaffar (i.e., imposing a time penalty on a player for a decision of the player with respect to moving along within the game). If this feature of Muzaffar were combined with the game of Seelig, the result would be to penalize a player with a time deduction for inserting coins or pulling the handle of a slot machine. This result would render the Seelig slot machine unsatisfactory for its intended purpose (to encourage players to keep playing the slot machine and generate revenue for a gaming establishment, as made clear by the Background section of Seelig). If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); MPEP 2143.01(V).

Since neither Seelig nor Muzaffar, alone or in combination, teach or suggest imposing a time penalty on a player as a result of an outcome that is determined based on a random number, Applicants respectfully submit that claim **1** (and all claims dependent therefrom, at least for this reason) are in condition for allowance.

D.2. Claims 5 – 7 in light of Seelig in view of Muzffar and Walker

Claims **5 – 7** stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Seelig in view of Muzaffar and further in view of U.S. Patent Application Publication No. 2001/0031654 to Walker et al. (“Walker” herein). Since Walker does not cure the deficiency of Seelig and Muzaffar, Applicants respectfully submit that claims **5 – 7** are allowable at least for the reasons set forth with respect to claim 1, in section D.1 above.

D.3. Claim 9 in light of Seelig in view of Muzaffar and Hedrick

Claim **9** stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Seelig in view of Muzaffar and further in view of U.S. Patent No. 6,368,216 to Hedrick et al. (“Hedrick” herein). Since Hedrick does not cure the deficiency of Seelig and Muzaffar, Applicants respectfully submit that claim **9** is allowable at least for the reasons set forth with respect to claim 1, in section D.1 above.

D.4. Claim 20 in light of Baerlocher ‘200 in view of Hedrick

Claim **20** stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Baerlocher ‘200 in view of Hedrick. Applicants respectfully traverse this rejection for the reasons set forth below.

Claim **20** is dependent from claim **17** and thus includes each of the limitations of claim **17**. Since Hedrick does not cure the deficiency of Baerlocher ‘200, discussed above in section D.1 above, Applicants respectfully submit that claim 20 is patentable at least for the same reason as claim **17**.

### **III. New Claims**

Applicants have added four new dependent claims herein, claims 21 – 24. Each of these dependent claims recites the same limitation, albeit as an added

limitation to a different independent claim. In particular, claims **21 – 24** each recites an additional step of *receiving a prepayment for the two or more handle pulls prior to the initiation of the secondary game, wherein the prepayment is distinct from an addition of credits to a balance of credits available for wagering on a primary game*. In other words, a prepayment for the two or more handle pulls of the primary game that the outcome of the secondary game is dependent on is received prior to an initiation of the secondary game. None of the references of record teach or suggest such a feature. Further, this feature is supported by the specification as filed. See, for example, the example embodiments described on pages 72 – 79 of the Application as filed.

## **Conclusion**

At least for the foregoing reasons, it is submitted that all claims are now in condition for allowance, or in better form for appeal, and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remain any questions regarding the present application or the cited reference, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Magdalena M. Fincham at telephone number 203-461-7041 or via electronic mail at [mfincham@walkerdigital.com](mailto:mfincham@walkerdigital.com), at the Examiner's convenience.

## **Authorization to Charge Fees**

Applicants believe a three-month extension of time to make this Amendment and Response timely is necessary. Please grant a petition for a three-month extension of time necessary to make this submission timely and charge \$1,020.00 to Deposit Account No. 50-0271. Additionally, please charge \$200.00 for four (4) dependent claims and charge any additional fees that may be required for this submission as follows:

Deposit Account: 50-0271

Order No. 03-005

Charge any additional fees or credit any overpayment to the same account.

Respectfully submitted,

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Date

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